IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1042 OF 2005

Kirit Bhagwan Gadhiya ...Applicant

Versus

The Intelligence Officer (Customs)

& Anr. ...Respondents

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Mr.Akhilesh Singh for Applicant.

Mr.J.C.Satpute for Respondent No.1.

Mr.A.S.Gadkari, A.P.P. for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

MARCH 18, 2005.

P.C.

1. Heard Counsel for the parties.

2. This Application is for relaxing the condition imposed by the Additional Chief Metropolitan Magistrate in his order dated 23rd July 2002 requiring the Applicant to deposit the passport with the Respondent No.1 as well as not to leave India without permission of this Hon’ble

Court.

3. Having considered the rival submissions, as the Applicant is willing to offer bank guarantee in the sum of Rs.10,00,000/- (Rupees Ten Lakhs) of a Nationalised Bank, for a period of five years, with undertaking that the Bank Guarantee will be renewed three months in advance before the date of expiry, the direction requiring the Applicant to deposit the passport with the Respondent No.1 will stand modified to that extent. In other words, on Applicant's furnishing Bank Guarantee in the sum of Rs.10,00,000/- (Rupees Ten Lakhs) of a Nationalised Bank valid for a term of five years with undertaking that he will renew the Bank Guarantee three months in advance before the date of expiry of the first guarantee, the passport of the Applicant to be returned by the Respondent No.1 to the Applicant.

4. However, the requirement of Applicant to take prior permission of this Hon'ble Court is modified, by allowing the Applicant to approach the Trial Court with that request. In other words,

although the passport is handed over to the Applicant, he shall not undertake any journey outside India, without taking prior permission of the Trial Court.

5. For the time being, as the Applicant intends to leave on 20th April 2005, the Respondents have no objection for granting permission, but on undertaking to be filed by the Applicant in this Court that he shall return to India on or before 30th July 2005 and report to the Investigating Officer immediately on the next date of his return to India. Ordered accordingly.

6. It is made clear that for undertaking future journeys, the Applicant will have to approach the Trial Court for prior permission.

7. Application allowed on the above terms.

A.M.KHANWILKAR, J.